

## **REMARKS**

This is a response to the Final Office Action mailed July 26, 2007. This Amendment & Response with the accompanying Request for Continued Examination is being timely submitted with a Petition for One-Month Extension of Time. Applicant has amended independent claim 23. Upon entry of the amendments in this response, claims 23 – 44 remain pending. Applicant respectfully requests that the application and all pending claims be reconsidered and allowed.

### **I. Allowed Claims 27 – 36, 39 and 40**

Applicant thanks the Examiner for acknowledging the allowable subject matter of claims 27 – 36. However, as explained below, Applicant respectfully submits that claims 23 – 26, 37, 38, and 41 – 44 are also patentable over the cited art and, therefore, should also be allowed.

### **II. Claims 23 – 26, 37, 38, and 41 – 44 are Patentable Over the Cited Art**

The Final Office Action rejects claims 23 – 26 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,512,617 to Tanji (“the ‘617 patent”). The Final Office Action admits that the ‘617 patent fails to teach a level detector, frequency detector, or code detector as recited in claims 37, 38, and 41 – 44. However, the Office Action rejects these claims under 35 U.S.C. §103(a) as allegedly being unpatentable over the ‘617 patent. The Office Action alleges that “one skilled in the art would clearly have recognized that any of these differentiators and their corresponding detectors could have been used to determine whether the input signal is a transmission signal or a programming signal”. The Office Action argues that “[d]ifferentiation of signal according to level, frequency, or code is very well known in the art and therefore, it would have been obvious to one skilled in the art at the

time the invention was made to employ any of these differentiators and their corresponding detectors in the system of [the '617 patent]".

Applicant respectfully submits that independent claim 23 is patentable over the '617 patent for at least the reason that the reference fails to disclose, teach, or suggest all of the limitations/features/elements recited in claim 23. Independent claim 23 recites an optical transmission module comprising an optical transmission element, a driver, an internal programmable control device, and a multiplexing device. Applicant respectfully submits that, unlike the optical transceiver system of the '617 patent, independent claim 23 is directed to an optical transmission module having an internal programmable control device. The Office Action alleges that EEPROM 15 anticipates the recited feature of a programmable control device configured to selectively drive the driver in a program mode of operation.

Independent claim 23 has been amended to clarify that the programmable control device is an internal component of the optical transmission module. The EEPROM 15 in the '617 patent is an external component to the CMOS transceiver integrated circuit (see FIG. 1). Therefore, while the EEPROM is part of the optical transceiver system 10, unlike the claimed optical transmission module of claim 23, the external control device requires the CMOS transceiver integrated circuit to have additional external connecting pins.

For at least this reason, Applicant respectfully submits that the rejection of independent claim 23 under 35 U.S.C. §102(b) is improper and should be withdrawn.

Furthermore, Applicant respectfully asserts that this difference between the optical transmission module of claim 23 and the '617 patent would not have been obvious at the time the invention was made to a person having ordinary skill in the art. In this regard, Applicant notes that the current statement of the rejection of independent claim 23 under §103 does not establish a prima facie case that this difference would have been obvious to a person having ordinary skill in the art. Accordingly, Applicant respectfully submits that the rejection of

independent claim 23 under 35 U.S.C. §103 is also improper and should be withdrawn.

Dependent claims 24 – 26, 37 and 41 – 44 (which depend from independent claim 23) are also patentable over the ‘617 patent for at least the reason that these claims include all of the features/limitations/elements of the corresponding base claim. Accordingly, Applicant respectfully requests that all rejections be withdrawn and the claims allowed.

## CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims 23 – 44 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 709-0013.

Respectfully submitted,

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